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MAR 11 2009

OFFICE OF PETITIONS

In re Application of :
Pihlaja : DECISION ON PETITION
Application No. 10/089,426 :
Filed: March 29, 2002 :
Atty. Dkt. No: 297-010894-US :
(PAR) :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed August 6, 2008.

Petitioner alleges non-receipt of the Pre-Brief Appeal Conference decision mailed February 25, 2008. The decision required applicant to proceed to the Board of Patent Appeals and Interferences by submitting an appeal brief within the timeframes set forth in the decision. The application is deemed abandoned for failure to timely submit an appeal brief in response to the decision. This decision precedes Notice of Abandonment.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be

submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The instant petition and accompanying documentary evidence have been carefully reviewed and found in compliance with the procedures set forth at MPEP 711.03(c).

In view thereof, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated.

Further, the petition to withdraw the holding of abandonment is hereby GRANTED.

This application is being forwarded to Group Art Unit 2419 for re-mailing of the decision. The time period for reply to the decision will be set forth therein.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



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